

## AMS/FAST CHANGE REQUEST (CR) COVERSHEET

**Change Request Number:** 18-02

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**Title:** Waste Management Guidance Change

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**Policy and Guidance:** (check all that apply)

- ☐ Policy
- ☒ Procurement Guidance
- ☐ Real Estate Guidance
- ☐ Other Guidance
- ☐ Non-AMS Changes

**Summary of Change:** Reference to clause 3.6.3-22 "Construction Waste Management" threshold increase from \$100,000 to \$150,000

**Reason for Change:** Threshold increase consistent with simplified purchasing threshold

**Development, Review, and Concurrence:** EOSH (AJW-232), Acquisition Policy, Procurement Legal, and Contracts

**Target Audience:** Contracting and program office personnel

**Briefing Planned:** No.

**ASAG Responsibilities:** None.

**Section / Text Location:** T3.6.3A.13

**The redline version must be a comparison with the current published FAST version.**

- ☒ I confirm I used the latest published version to create this change / redline
- or**
- ☐ This is new content

**Links:** <http://fast.faa.gov/docs/procurementGuidance/guidanceT3.6.3.pdf>

**Attachments:** Redline and final.

**Other Files:** N/A.

**Redline(s):**

**Section Revised: 3.6.3 A 13 – Waste Management and Pollution Prevention**

**Procurement Guidance - (~~10/2017~~ 1/2018)**

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### **T3.6.3 Environment, Conservation, Occupational Safety, and Drug Free Workplace**

Revised 4/2009

#### **A Environment, Conservation, Occupational Safety, and Drug Free Workplace**

Revised 4/2009

##### **1 Contracting for Sustainable Products and Services** Revised 4/2017

FAA will ensure that sustainable acquisition requirements are included in all applicable procurements in the planning, award and execution phases of the acquisition to the maximum extent practicable. FAA should ensure requirements are included in the necessary contract documentation, purchase agreements, service agreements, purchase orders, delivery orders and communications with contractors and subcontractors as appropriate. Environmental performance and sustainability requirements should be included in the statement of work (SOW), statement of objectives (SOO), or ordering documents, or through the inclusion of applicable clauses and provisions.

If a product category is covered under more than one tier (as described below), FAA should aim to procure a product or service that is compliant with all applicable tiers. However, FAA will give preference to products or services within the highest tier (e.g., Tier 1).

a. *Tier 1. Statutory Mandates.* In order to meet the objectives of EO 13693 “Planning for Federal Sustainability in the Next Decade,” FAA will meet statutory mandates that require purchase preference for:

- (1) Recycled-content products designated by the Environmental Protection Agency (EPA) as listed in the Comprehensive Procurement Guidelines (CPG);
- (2) Energy- and water-efficient products and services, such as ENERGY STAR®-qualified and Federal Energy Management Program (FEMP)-designated products, identified by EPA and DOE; and
- (3) BioPreferred and biobased designated products designated by the U.S. Department of Agriculture (USDA).

b. *Tier 2. Products and Services Identified by EPA Programs.* After determining the applicability of statutory requirements, FAA will next give preference to purchasing sustainable products and services identified by EPA programs that include:

- (1) Significant New Alternative Policy (SNAP) chemicals or other alternatives to ozone depleting substances and high global warming potential hydrofluorocarbons, where feasible, as identified by SNAP;
- (2) WaterSense® certified products and services;

(3) Safer Choice<sup>®</sup> labeled products (chemically intensive products that contain safer ingredients); and

(4) SmartWay<sup>®</sup> Transport partners and SmartWay products (fuel efficient products and services).

c. *Tier 3. Non-Federal Specifications, Labels and Standards.* Where no statutory mandates, EPA programs, or EPA recommended specifications, labels or standards exist, FAA will give preference to non-federal specifications, standards, or labels to further advance sustainable procurements. To determine whether a specification, label, or standard that is not yet recommended by EPA through its Environmentally Preferable Purchasing (EPP) Program may be used to meet sustainable acquisition goals, FAA will assess whether the process to develop the specification, label or standard conforms to the requirements of OMB Circular A-119, and whether the specification, label or standard conform to the environmental performance standards guidelines contained in Section II of the EPA *Draft Guidelines for Product Environmental Performance Standards & Ecolabels for Voluntary Use in Federal Procurement* (or subsequent updates) at <https://www.epa.gov/greenerproducts/draft-guidelines-product-environmental-performance-standards-and-ecolabels-voluntary>. The Contracting Officer (CO) should document the basis for the decision and include the documentation in the procurement file.

d. *Exceptions.* Sustainable acquisition requirements are considered practicable unless there is an allowable exception for acquiring a sustainable product or service. An allowable exception is available if any of the following conditions exist:

- Product or service cannot be acquired competitively within a reasonable performance schedule.
- Product or service cannot be acquired that meets reasonable performance requirements.
- Product or service cannot be acquired at a reasonable price. The price shall be deemed unreasonable when the total life cycle costs are significantly higher for the sustainable product or service versus the non-sustainable product or service. Life cycle costs are determined by combining the initial costs of a product or service with any additional costs or revenues generated from that product or service during its entire life.
- An exception is provided by statute, such as the exception to procuring ENERGY STAR or FEMP-designated products under 42 U.S.C. § 8259b(b)(2).

If a product meets any of the aforementioned exceptions, FAA should strive to purchase a comparable product that is still environmentally sustainable (e.g., if a WaterSense product is not available at a reasonable price, FAA should purchase a similar product that is water efficient and available at a reasonable price). If at any point during the acquisition it is determined that a contract action cannot comply with the sustainable requirements due to an exception, the CO must document, within the contract file, the exception being used and rationale for the exception (Appendix 2).

e. *Life-Cycle Cost Analysis.* FAA will consider full life-cycle costs and savings in planning and implementing projects and making cost-effectiveness determinations about investments in capital assets and services. To assist in selecting products and services, costs should be calculated over the

life of the item, not just the initial, up-front cost. When comparing alternative products, the initial cost of the acquisition, as well as lifetime maintenance costs, operational costs, resale value, etc. should be considered in the analysis. A product having a higher initial cost may have lower operational cost or a higher resale value and will, therefore, prove to be a better value and more cost-effective compared to the alternatives.

*f. Contractors Use of Sustainable Products and Services.* The requirement to promote sustainable acquisition by ensuring that all of the environmental performance and sustainability factors are included to the maximum extent practicable applies to contractors when they are purchasing or supplying products or services for use in the performance of a contract. The contractor is required to monitor and report on its procurement activities as well as require its applicable subcontractors to comply with sustainable acquisition requirements.

*g. Tracking and Reporting.* FAA will track compliance toward 100 percent compliance with sustainable acquisition requirements through quarterly agency contract compliance reviews.

*h. Promotion Program.* FAA should provide informational materials, statements, and training to program and procurement offices regarding the agency's sustainable acquisition program through internal documents, newsletters, and at appropriate conferences, workshops, and meetings.

## **2 Responsibilities** Revised 10/2016

### *a. Program Office Responsibilities.*

(1) Program offices are responsible for identifying hazardous materials and any safety controls that may be required in the delivery of supplies, services, or construction to FAA.

(2) When preparing specifications and purchase descriptions or utilizing SOWs for the acquisition of supplies, services, and construction, program offices must:

(a) Meet sustainable acquisition requirements. Program offices must first meet the statutory mandates for purchasing preference. If statutory mandates do not exist, program offices must then give preference to purchasing sustainable products and services identified by EPA programs. Where no statutory mandates, EPA programs, or EPA recommended specifications, labels, or standards exist, program offices must give preference to non-Federal specifications, standards, or labels to further advance sustainable procurements);

(b) Review and revise specifications or requirements during the planning phase of the acquisition to be in compliance with FAA's procurement of sustainable products and services. Additional information on specific products and services is contained in the sections below. The Green Procurement Compilation at <https://sftool.gov/greenprocurement> is a web-based, centralized resource to assist federal agencies with sustainable acquisition. It is searchable by product or service type and contains information on associated sustainable acquisition requirements as well as where to purchase the products. Also visit the FAA SAVES Program

[website](#) for sustainable products and services. For construction projects, visit Federal Green Construction Guide for Specifiers at <https://www.wbdg.org/design/greenspec.php>.

b. *Contracting Officer (CO) Responsibilities.*

(1) *Pre-Award.* The CO must ensure:

- (a) Procurement Request (PR) packages are complete;
- (b) The Screening Information Request (SIR) includes all required clauses and provisions to support FAA's procurement of sustainable products and services (e.g., energy- and water- efficient, biobased, recycled content);
- (c) All required certifications are received prior to contract award;
- (d) Documentation in the contract file of any exceptions being used and the rationale for the exceptions (Appendix 2);
- (e) EPA reports (e.g. Toxics Release Inventory Form (Form R) are submitted on time; and
- (f) Notification and coordination with EPA if a CO becomes aware of noncompliance with environmental standards(e.g. Clean Water Act (CWA), Clean Air Act (CAA)) in a prospective or performing contractor's facilities.

(2) *Post Award.* The CO must:

- (a) Ensure that all required post-award certifications and estimations are submitted to FAA as required.
- (b) Periodically review vendor certification and estimation documents as part of the annual report and monitoring process.
- (c) Ensure that such contractors are familiar with all applicable sustainable acquisition requirements contained in contracts with FAA. During initial contract execution, the COs should brief contractors on their role in the sustainable acquisition process.
- (d) Monitor contract performance and ensure that contractors are meeting their purchasing and reporting requirements as they relate to sustainable acquisition.
- (e) Ensure that contractors notify the FAA prior to delivering hazardous or radioactive material.

### **3 Hazardous Material Identification and Safety Data** Revised 10/2016

a. The program office should obtain information before award about hazards that may be introduced into the workplace by the supplies being acquired such as:

(1) That required by Federal Standard No. 313 (including revisions adopted during the term of the contract) in obtaining hazardous material; or

(2) That identified by a FAA technical representative as potentially hazardous and requiring safety controls.

b. As required by 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, the successful offeror/contractor is required to submit Safety Data Sheets prior to contract award and with supplies at the time of delivery, unless the offeror/contractor certifies that the supplies are not hazardous. The CO must provide a copy of all Safety Data Sheets received to the safety officer and program office.

### **4 Notice of Radioactive Material** Revised 10/2016

a. The procurement team requires contractors to notify FAA receiving activities prior to delivering radioactive material so FAA can initiate appropriate safeguards. The CO may waive the notification if the contractor certifies that the notification on prior deliveries is still accurate. However, the CO may only waive the notice after consultation with the cognizant contracting technical representatives.

b. The procurement team should require offerors to specify the number of days in advance of delivery that the receiving activity will be notified of an impending delivery. The determination of the number of days should be done in coordination with the installation/facility radiation protection officer (RPO). The RPO is responsible for insuring the proper license, authorization or permit is obtained prior to receipt of the radioactive material.

### **5 Alternatives to Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons** Revised 4/2017

a. FAA will procure SNAP chemicals or other alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons, where feasible, as identified by SNAP, to reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere. Under SNAP, EPA identifies lists of acceptable and unacceptable substitutes for ozone-depleting substances that include air conditioning and refrigeration; fire suppression; cleaning solvents; foam-blowing agents; aerosols; adhesives, coatings and inks; sterilants; and tobacco expansion. FAA will ensure that the product complies with statutory mandates (e.g., biobased) if applicable to the product category. Products identified under the SNAP program as well as other

alternatives to ozone-depleting substances may be purchased from the Green Procurement Compilation website at <https://sftool.gov/greenprocurement>.

b. If an exception, as defined in Section 1.d., is met and there are no non-ozone depleting options for a particular procurement, then FAA will specify in the SIR/contract that only offerors with the appropriate EPA certifications will be considered for award under EPA's Ozone Layer Protection Regulatory Programs.

## **6 Chemicals Management** Revised 4/2017

a. FAA will purchase Safer Choice labeled products to reduce the overall quantity of chemicals and toxic materials acquired, used, and disposed of (e.g., aircraft cleaning products, deicers, floor care products). Under EPA's Safer Choice Program products are less toxic, and include requirements for performance, packaging, pH and volatile organic compounds. Safer Choice products may be purchased using the Green Procurement Compilation website at <https://sftool.gov/greenprocurement>. FAA will ensure that the product complies with statutory mandates (e.g., biobased) if applicable to the product category.

b. Additionally, FAA will implement EPA's Integrated Pest Management (IPM) Principles and Water-Efficient Landscaping practices to reduce and eliminate the use of toxic and hazardous chemicals and materials.

## **7 Energy Conservation and Efficiency** Revised 4/2017

In order to meet the objectives of EO 13693, the Energy Policy Act of 2005 (EPA 2005), the Energy Independence and Security Act of 2007 (EISA 2007), and FAA Order 1053.1B (or the latest version), the FAA procurement team (CO, program official, legal counsel, and others supporting a program) will make energy conservation and efficiency a contracting consideration when procuring products affecting energy consumption. Energy conservation and efficiency data must be considered along with estimated cost and other relevant factors in the preparation of plans, drawings, specifications, and other product descriptions. When procuring energy-consuming products:

a. FAA will procure the most energy efficient products available, where life-cycle cost effective and consistent with the mission need.

b. FAA will purchase ENERGY STAR labeled, and FEMP designated products.

c. FAA will promote electronics stewardship throughout the acquisition lifecycle and ensure a procurement preference for environmentally sustainable electronic products, such as the Electronic Product Environmental Assessment Tool (EPEAT). EPEAT is a procurement tool designed to help purchasers evaluate, compare, and select products (e.g., computer desktops, laptops, and monitors) on the basis of their environmental attributes. FAA will purchase electronic products or services that meet or exceed specifications, standards, or labels recommended by EPA (e.g., EPEAT electronic products is the highest rating available in FY16) and follow the latest version of EPA's

Recommendation of Specifications, Standards and Ecolabels for electronics. All EPEAT registered products are ENERGY STAR labeled.

d. For products that consume power in standby mode and are listed on FEMP's Low Standby Power Devices product listing, FAA will:

(1) Purchase items which meet FEMP's standby power wattage recommendation or document why such items were not purchased; or

(2) If FEMP has listed a product without a corresponding wattage recommendation, purchase items which use no more than one watt in standby power consuming mode. If meeting the one-watt requirement is impracticable, FAA will purchase items with the lowest standby wattage practicable. This requirement applies only to commercially available, off-the shelf products, where life cycle cost-effective and practicable.

e. FAA will purchase technologies that utilize renewable energy sources where their application and use would be practicable, life-cycle cost effective, and consistent with mission needs.

f. Energy efficient products (i.e., ENERGY STAR, FEMP, and EPEAT) (may be purchased from the Green Procurement Compilation website at <https://sftool.gov/greenprocurement>).

## 8 Renewable Energy Certificates Revised 4/2017

a. FAA has the option of purchasing renewable energy certificates (RECs) to help meet Federal clean energy and renewable energy use requirements. FAA can conduct their own procurement for these RECs or can work with GSA, Defense Logistics Agency (DLA) and Western Area Power Administration (WAPA) to draw on procurement expertise and coordinate bulk purchases with other agencies.

b. In order to count a REC toward the renewable energy target, in order to meet the objectives of EO 13693, the electricity will have been generated by a renewable generator that was placed into service within ten (10) years prior to the start of the fiscal year in which FAA intends to count the REC toward the renewable energy targets. RECs purchased will be from renewable sources of electricity derived from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, geothermal heat pumps, microturbines, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project. Municipal solid waste REC purchases are discouraged as this source of renewable energy negatively impacts the FAA's greenhouse gas emission reduction performance. In addition, RECs will meet "vintage" requirements where "vintage" refers to the period of time during which the energy the RECs represent was generated. Refer to the following table for the vintage requirements for each fiscal year:

<u>Fiscal Year</u>	<u>"Vintage", i.e., Period of Generation for RECs</u>
<u>FY 2016</u>	<u>01 April 2015 – 31 December 2016</u>

<u>FY 2017</u>	<u>01 April 2016 – 31 December 2017</u>
<u>FY 2018</u>	<u>01 April 2017 – 31 December 2018</u>
<u>FY 2019</u>	<u>01 April 2018 – 31 December 2019</u>
<u>FY 2020</u>	<u>01 April 2019 – 31 December 2020</u>
<u>FY 2021</u>	<u>01 April 2020 - 31 December 2021</u>
<u>FY 2022</u>	<u>01 April 2021 – 31 December 2022</u>
<u>FY 2023</u>	<u>01 April 2022 – 31 December 2023</u>
<u>FY 2024</u>	<u>01 April 2023 - -31 December 2024</u>
<u>FY 2025</u>	<u>01 April 2024 – 31 December 2025</u>

RECs purchased for a given fiscal year will meet the corresponding vintage requirements in order for them to count towards that fiscal year's Federal renewable energy requirement.

c. In order to meet REC reporting requirements, FAA will obtain documentation under the contract showing both transference and ownership of the RECs, and it will also include the following information:

- (1) Number of RECs sold in megawatt hours (MWhs);
- (2) Fuel type (renewable fuel used to generate electricity associated with RECs sold);
- (3) Period of generation for RECs sold (month or quarter, and year);
- (4) Cost per REC (or total purchase price);
- (5) Location of the generation facility; and
- (6) Date the generation facility was placed in service.

Optional additional information may include:

- (1) Renewable energy project name;
- (2) Generator ID number; and
- (3) Nameplate capacity.

Usually this documentation is in the form of an attestation from the REC provider and a certificate of transfer, which demonstrates rights to the renewable attributes of the power generated by the renewable resource transfer to the buyer.

## **9 Water Conservation and Efficiency** Revised 4/2017

The procurement team (CO, program official, legal counsel, and others supporting a program) will make water conservation a contracting consideration when procuring products affecting FAA water consumption. Water conservation and efficiency data will be considered along with estimated cost and other relevant factors in the preparation of plans, drawings, specifications, and other product descriptions. In order to meet the objectives of EO 13693 and FAA Order 1053.1B (or the latest version), when procuring water consuming products-

- a. FAA will purchase WaterSense certified products.
- b. FAA will procure WaterSense certified services.

WaterSense products may be purchased from the Green Procurement Compilation website at <https://sftool.gov/greenprocurement>.

## **10 BioPreferred and Biobased Designated Products** Revised 4/2017

In order to meet the objectives of EO 13693, the Farm Security and Rural Investment Act of 2002, the Food Conservation and Energy Act of 2008, and the Agricultural Act of 2014, FAA will purchase and use USDA BioPreferred and biobased products. FAA will give preference to products composed of the highest percentage of biobased material practicable. Biobased products are derived from plants and other renewable agricultural, marine, and forestry materials and provide an alternative to conventional petroleum derived products. Biobased products may be purchased from the Green Procurement Compilation website at <https://sftool.gov/greenprocurement>.

## **11 Preference for Recycled-Content Products** Revised 4/2017

- a. In order to meet the objectives of EO 13693, FAA will procure products composed of recycled content, which are produced with waste materials and byproducts recovered or diverted from solid waste. Recycled-content products are designated in EPA's CPG and FAA is required to purchase these products at the highest percentage of recovered content practicable.

FAA will give preference to procuring and using such products containing recovered materials versus products made with virgin materials. These products will be purchased containing the percentages of recovered materials (recycled content) indicated in the CPG. The major CPG categories are Paper and Paper Products, Vehicular Products, Construction Products, Transportation (Traffic Control) Products, Park & Recreation Products, Landscaping Products, Non-paper Office Products, and Miscellaneous Products.

- b. Printing and Writing Paper.* FAA should purchase uncoated paper (including office paper products or support services that include the supply of written documents) containing at least 50 percent post-consumer recycled fiber content whenever practicable. If not practicable, in order to meet the objectives of EO 13693, FAA will purchase uncoated printing and writing paper containing at least 30 percent post-consumer recycled content or higher.

c. *Recycled-Content Products Threshold.* The requirement to purchase recycled-content CPG items applies to all purchases, including those purchases falling under the defined threshold level or made using a purchase card and/or credit card checks.

d. When all sustainable acquisition requirements for toner cartridges cannot be met in the same product, remanufactured and recycled content should receive purchasing priority over biobased toner.

e. Recycled-content products designated in the CPG may be purchased from the Green Procurement Compilation website at <https://sftool.gov/greenprocurement>.

## **12 Fuel Efficient Products and Services** Revised 4/2017

FAA will procure SmartWay products, and services from SmartWay Transport partners. The EPA SmartWay program is a public-private partnership to reduce greenhouse gas emissions and air pollution created by freight transportation in supply chains. SmartWay helps companies that transport goods to improve efficiency by measuring, benchmarking and streamlining freight supply chain operations. The program has verified the fuel saving and/or emission reducing benefits of products within the following categories: aerodynamic technologies, idle reduction technologies, low rolling resistance tires, and retrofit technologies.

## **13 Waste Management and Pollution Prevention** Revised 4/2017 1/2018

a. *Non-hazardous Solid Waste.* FAA will divert at least 50 percent of non-hazardous solid waste, including food and compostable material but not construction and demolition materials and debris, annually, in order to meet the objectives of EO 13693. Each contract for contractor operation of or maintenance at a Government owned or leased facility should require contractor programs to promote and implement cost-effective waste reduction and diversion in performing the contract, to the maximum extent practicable. Where economically feasible, existing contracts for contractor operation of or maintenance at Government-owned or leased facilities should be modified to include the promotion and implementation of cost-effective non-hazardous solid waste reduction and diversion in contract performance.

(1) The contractor must track non-hazardous solid waste diversion efforts and provide a Non-Hazardous Solid Waste Diversion Report each month in accordance with AMS clause 3.6.3-7 "Waste Management and Pollution Prevention."

(2) A sample Non-Hazardous Solid Waste Diversion Report Form can be found in the FAA AMS Statement of Work Generator and DID Library under DID FAA-EOSH-002.

b. *Construction and Demolition (C&D) Waste.*

(1) FAA will divert at least 50 percent of non-hazardous C&D materials and debris in order to meet the objectives of EO 13693. Examples of materials to be diverted are as follows:

- (a) Soil;
- (b) Inerts (e.g., concrete, masonry, or asphalt);
- (c) Clean dimensional wood and pallet wood;
- (d) Green waste (e.g., biodegradable landscaping materials);
- (e) Engineered wood products (e.g., plywood, particle board);
- (f) Metal products (e.g., steel, wire, beverage containers);
- (g) Cardboard, paper, and packaging;
- (h) Bitumen roofing materials;
- (i) Plastics (e.g., ABS, PVC);
- (j) Carpet and/or padding;
- (k) Gypsum board;
- (l) Insulation;
- (m) Paint; and
- (n) Fluorescent lamps.

(2) For all construction, demolition, or facilities modernization contracts over \$~~100~~150,000 in awarded value, the contractor must submit a Waste Management Plan to the CO no later than fifteen (15) days after contract award and prior to the start of construction activities in accordance with Clause 3.6.3-22 "Construction Waste Management." The clause also requires the contractor to divert at least 50 percent of the weight of the total non-hazardous solid waste generated by the work from landfills and incinerators (unless a lower percentage is specified in the clause by the CO).

- (a) The contractor must track C&D waste diversion efforts and provide a Construction and Demolition Debris Diversion Report each month in accordance with the above clause.
- (b) A sample Construction and Demolition Debris Diversion Report Form can be found in the FAA AMS Statement of Work Generator and DID Library under DID FAA-EOSH-001.

(3) The Whole Building Design Guide ([www.wbdg.org](http://www.wbdg.org)) provides a [Construction Waste Management Database](#) that contains information on companies that haul, collect, and process recyclable debris from construction projects.

c. FAA facilities must comply with the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

d. Every FAA contract that provides for performance on a Federal facility must stipulate that the contractor must provide information necessary for FAA to comply with the emergency planning and toxics release reporting requirements of EPCRA and PPA.

#### **14 Energy Savings Performance Contracts** Revised 4/2017

a. An Energy Savings Performance Contract (ESPC) is a contract that allows the FAA to accomplish energy projects for its facilities with little or no upfront capital costs. Under an ESPC, a contractor (i.e., an Energy Savings Company (ESCO)) finances the up-front cost of the project, guarantees the project improvements will generate enough energy and water cost savings to pay for the project over the contract period, and is paid back from the resultant energy and water savings over the contract period. Financed project costs may include ESCO services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair of an identified energy conservation measure or series of measures at one or more FAA facilities. If sufficient appropriated funding to cover the entire project is not available, or is not expected to be available in a reasonable time frame, FAA may award ESPCs to accomplish energy savings projects at FAA. FAA may contract with an ESCO for a period not to exceed 25 years.

b. *Procedures.* To solicit and award an ESPC, the CO must use the procedures, selection method, and terms and conditions provided in 10 CFR Part 436, Subpart B, at the DOE [FEMP](http://energy.gov/eere/femp) website at <http://energy.gov/eere/femp/energy-savings-performance-contracts-federal-agencies> and must use the “Qualified List” of ESCOs established by the DOE. The resulting award would be processed as an order under the applicable DOE contract consistent with AMS guidance on interagency procurement.

c. *Training.* All COs responsible for negotiating ESPCs must take DOE FEMP-sponsored contracting training for ESPCs (ESPC Contracting and Negotiations Webinar).

d. All ESPCs must comply with the National Energy Conservation Policy Act (42 U.S.C 8287) as set forth in the DOT Limited Delegation of Authority of July 11, 2012 until such time as the DOE statute or implementing regulations are revised.

#### **15 Utility Energy Service Contracts** Revised 4/2017

a. Under a Utility Energy Service Contract (UESC), FAA may contract with a local servicing utility for technical services and/or up-front project financing for energy efficiency, water conservation, and renewable energy investments at one or more FAA facilities. The utility finances the capital costs of

the project with little or no up-front capital costs to the FAA, and the utility is then repaid over the contract term from the cost savings generated by the project. If sufficient appropriated funding to cover the entire project is not available, or not expected to be available in a reasonable time frame, FAA may award UESCs at FAA facilities. Unlike a Energy Savings Performance Contract, a UESC is not required to include performance guarantees. Because of this, it is highly recommended that performance guarantees or assurances be incorporated into these contracts to reduce FAA risk. Performance assurances do not guarantee energy savings; however, they provide assurance that equipment installed will perform as expected. A UESC should also include measurement and verification of savings through equipment commissioning, recommissioning or retro-commissioning.

b. *Planning.* Acquisition planning for a UESC should include the following:

- (1) Inclusion of applicable performance assurance criteria in the SIR and contract;
- (2) Analysis that shows that the planned energy conservation measures are cost effective; and
- (3) A competition or alternatives analysis as part of the selection process.

c. *Procedures.* To solicit and award a UESC, the CO must use the procedures, selection method, and terms and conditions provided on the Department of Energy FEMP website at <http://energy.gov/eere/femp/utility-energy-service-contracts-federal-agencies>.

d. All UESCs must comply with the Energy Policy Act of 1992 (42 USC 8256).

## **16 Drug Free Workplace** Revised 10/2016

a. *Applicability.* Drug-free workplace requirements apply to all contracts except those performed outside of the United States, its territories, and its possessions; or when application would be inconsistent with international obligations of the U.S. or foreign laws or regulations.

b. *Attestation.* The firm or individual attests to providing a drug-free workplace by their signature on the contract.

c. *Penalties.* After determining in writing that adequate evidence to suspect the specific cause identified exists, the CO may elect to suspend contract payments or to terminate the contract.

- (1) The specific cause for suspension of contract payments, termination of a contract, or suspension and debarment is that such a number of contractor employees have been convicted of violations of criminal drug statutes occurring in the workplace to indicate that the contractor has failed to make a good-faith effort to provide a drug-free workplace.
- (2) A determination to suspend contract payments, terminate a contract, or debar or suspend a contractor may be waived for a particular contract, only if such waiver is necessary to prevent a severe disruption of FAA's operation to the detriment of the Federal Government or the general public.

## B Clauses

[view contract clauses](#)

## C Forms

[view procurement forms](#)

## D Appendix

### 1 Appendix – Definitions Revised 10/2016

**Alternative Energy.** Energy generated from technologies and approaches that advance renewable heat sources, including biomass, solar thermal, geothermal, waste heat, and renewable combined heat and power processes; combined heat and power; small modular nuclear reactor technologies; fuel cell energy systems; and energy generation, where active capture and storage of carbon dioxide emissions associated with that energy generation is verified.

**Biobased.** Products derived from plants and other renewable agricultural, marine, and forestry materials and provide an alternative to conventional petroleum derived products.

**BioPreferred.** A U.S. Department of Agriculture (USDA) program that increases the purchase and use of biobased products. There are two major parts of the program: (1) mandatory purchasing requirements for federal agencies and their contractors; and (2) a voluntary labeling initiative for biobased products.

**Clean Energy.** Renewable electric energy and alternative energy.

**Comprehensive Procurement Guidelines (CPG).** EPA's guidelines to promote the use of materials recovered from solid waste. These guidelines ensure that recycled-content products collected in recycling programs are used again in the manufacture of new products. EPA is required to designate products that are or can be made with recovered materials, and to recommend practices for buying these products. Once a product is designated, procuring agencies are required to purchase it with the highest recovered material content level practicable. Currently there are 61 products designated in eight categories.

**Electronic Product Environmental Assessment Tool (EPEAT).** A procurement tool designed using a grant from the EPA and managed by the Green Electronics Council (GEC) to help purchasers evaluate, compare, and select products (e.g., computer desktops, laptops, and monitors) on the basis of their environmental attributes. EPEAT-registered products must meet environmental performance criteria that address: materials selection, design for product longevity, reuse and recycling, energy conservation, end-of-life management, and corporate performance.

**ENERGY STAR.** A joint EPA and DOE program that identifies and promotes energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the highest energy efficiency standards.

**Environmentally Preferable Purchasing Program (EPP).** An EPA program that helps federal agencies to procure greener products and services and harness federal purchasing power to green markets. Environmentally preferable items include raw materials, manufacturing, packaging, distribution, use, reuse, operation, maintenance, and disposal.

**Federal Energy Management Program (FEMP) Designated Products.** Products designated under DOE FEMP as being among the highest 25 percent of equivalent products for energy efficiency.

**Green Procurement Compilation (GPC).** A comprehensive green purchasing resource developed by the U.S. General Services Administration (GSA) designed for federal contracting personnel and program managers. It identifies applicable green purchasing requirements by consolidating and organizing information from federal environmental programs in one place. The GPC allows users to quickly identify federal green purchasing requirements for the products and services bought; to search by keyword or browse by category to find products and services; to determine procurement options available to federal buyers, including applicable GSA Multiple Award Schedules, Federal Strategic Sourcing Initiative solutions, and GSA Global Supply; to learn more about federal environmental programs and other EPA recommended standards and labels; and to discover optional environmental programs and additional procurement guidance to help sustainability goals.

**Hydrofluorocarbons (HFC).** Compounds containing only hydrogen, fluorine, and carbon atoms. They were introduced as alternatives to ozone depleting substances in serving many industrial, commercial, and personal needs. HFCs are emitted as by-products of industrial processes and are also used in manufacturing. They do not significantly deplete the stratospheric ozone layer, but they are powerful greenhouse gases with global warming potentials ranging from 140 (HFC-152a) to 11,700 (HFC-23).

**Integrated Pest Management (IPM).** The implementation of diverse methods of pest controls, paired with monitoring to reduce unnecessary pesticide applications. In IPM, pesticides are used in combination with other crop management approaches to minimize the effects of pests while supporting a profitable system that has negligible negative effects.

**Low Standby Power Devices. Products with low** standby power – the level of power consumption that occurs when a device is in the lowest power-consuming mode—typically when the product is switched off or not performing its primary purpose. Federal agencies are required to purchase

energy-consuming products with a standby power level of one (1) watt or less when compliant models are available on the market. If a product with a standby power level of one (1) watt or less is not currently available, a product with the lowest possible standby power level in the product category should be purchased.

**Ozone-Depleting Substances (ODS).** Compounds that contribute to stratospheric ozone depletion. ODS include chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), halons, methyl bromide, tetrachloride, hydrobromofluorocarbons, chlorobromomethane, and methyl chloroform. ODS are generally very stable in the troposphere and only degrade under intense ultraviolet light in the stratosphere. When they break down, they release chlorine or bromine atoms, which then deplete the ozone.

**Recycled-Content Products.** Items produced with waste materials and byproducts recovered or diverted from solid waste.

**Renewable Energy.** Electric energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, geothermal heat pumps, microturbines, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

**Renewable Energy Certificates (REC).** The technology and environmental (non-energy) attributes that represent proof that one (1) megawatt-hour (MWh) of electricity was generated from an eligible renewable energy resource, that can be sold separately from the underlying generic electricity with which they are associated, and that were produced by sources of renewable energy placed into service within ten (10) years prior to the start of the fiscal year. RECs are also referred as renewable energy credits.

**Safer Choice** (Formerly known as Design for the Environment). An EPA program that helps consumers, businesses, and purchasers find products that perform well and are safer for human health and the environment. Safer Choice products are less toxic, and also include requirements for performance, packaging, pH, and volatile organic compounds.

**Significant New Alternative Policy (SNAP).** An EPA program that identifies and promotes alternatives to ozone depleting substances in the following sectors: adhesives, coatings, and inks; aerosols; cleaning solvents; fire suppression and explosion protection; foam blowing agents; refrigeration and air conditioning; sterilants; and tobacco expansion.

**SmartWay.** An EPA public-private initiative to reduce greenhouse gas emissions and air pollution created by freight transportation in corporate supply chains. SmartWay aims to accelerate the availability, adoption and market penetration of advanced fuel efficient technologies and operational practices in the freight supply chain, while assisting companies with fuel savings, lowering costs and reducing adverse environmental impacts.

**Solid Waste.** Non-hazardous solid waste, including food and compostable material but not construction and demolition materials and debris.

**Sustainable Acquisition.** An acquisition of goods and services in order to create and maintain conditions under which humans and nature can exist in productive harmony; and permit fulfillment of the social, economic, and other requirements of present and future generations.

**Water-Efficient Landscaping.** An approach that utilizes designs and plants suited to local conditions and saves water, prevents pollution and protects the environment while producing attractive landscapes.

**WaterSense.** An EPA program that seeks to help consumers to identify and promote high-performance products and programs that help preserve the Nation's water supply. Products and services that have earned the WaterSense label have been certified to be at least 20 percent more efficient without sacrificing performance.

## **2 Appendix – Rationale for not Complying with the Sustainable Acquisition Requirements** Revised 10/2016

Procurement Request No.: \_\_\_\_\_

Sustainable acquisition requirements are considered practicable unless there is an allowable exception for acquiring a sustainable product or service. An allowable exception is available if any of the following conditions exist (check the one that applies):

☐ Product or service cannot be acquired competitively within a reasonable performance schedule.

☐ Product or service cannot be acquired that meets reasonable performance requirements.

☐ Product or service cannot be acquired at a reasonable price. The price shall be deemed unreasonable when the total life cycle costs are significantly higher for the sustainable product or service versus the non-sustainable product or service. Life cycle costs are determined by combining the initial costs of a product or service with any additional costs or revenues generated from that product or service during its entire life.

☐ An exception is provided by statute, such as the exception to procuring ENERGY STAR or FEMP-designated products under 42 U.S.C. § 8259b(b)(2).

Rationale for Not Complying with the Sustainable Acquisition Requirements:

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Signature of Procurement Originator

Date

Contracting Officer

Date